

**DIVISION OF ADMINISTRATION
OFFICE OF RISK MANAGEMENT
CASE HANDLING GUIDELINES AND BILLING PROCEDURES**

For attorneys under contract, the Office of Risk Management, hereinafter referred to as ORM, expects to work with you and your firm in an efficient and cost-conscious manner consistent with your firm's ethical obligations. Nothing contained herein is intended to restrict Contract Counsel's exercise of professional judgment in rendering legal services. Contract counsel bears ultimate responsibility for all work performed pursuant to the contract and/or billed to the file.

I. GOALS FOR CASE DEVELOPMENT AND RESOLUTION

- Efficient assessment of liability and early settlement of cases where liability is clear
- Identification and agreement between contract counsel and ORM regarding necessary defense steps, activities, and strategy for those cases not capable of early resolution
- Employment of alternative dispute resolution whenever feasible
- Timely discussion and agreement on settlement authority between contract counsel, ORM, and appropriate personnel at the Louisiana Department of Justice (DOJ) prior to and during negotiation and finalization of settlement

II. STAFFING

- Only contract attorneys and their staff approved by ORM may work on ORM cases.
- An attorney may not work on a case until a contract has been signed by all parties. Verbal approval, documented in writing, may be obtained to begin work *only in an emergency*.
- Contract Counsel and ORM shall agree on one attorney, referred to as the "Billing Attorney" who will have primary responsibility for the file. The activities of the Billing Attorney are governed by the terms and conditions of the contract, the letter of appointment from the Attorney General and these Case Handling Guidelines and Billing Procedures.
- Billing Attorney is required to review all e-mail with the same frequency and to the same extent as he reviews communications received via the U.S. Postal Service.
- Billing Attorney shall be primarily responsible for all communications with ORM and DOJ.
- At the inception of the contract, Billing Attorney is required to provide an e-mail address to ORM and DOJ.
- Rates for each attorney and/or paralegal who will work on the file must be agreed upon between Contract Counsel and ORM. Any changes in rates must be approved by ORM in writing before becoming effective.
- Cases should be staffed by the fewest number of attorneys and paralegals necessary to perform the work effectively and efficiently.

- Any staffing changes should be discussed with ORM prior to engaging in billable work.
- Duplication/repetition of effort among staff members must be avoided.
- Attorneys and paralegals may not bill for clerical tasks.
- Attorneys may not bill attorney rates for paralegal tasks.
- Work performed by clerical and/or administrative staff is not billable.
- ORM will not pay to bring associates or staff 'up to speed' on a case due to unforeseen changes in staffing by the law firm.

III. BUDGET

- The defense budget is particularly critical to ORM, as it includes an estimate of the MAXIMUM JUDGMENT VALUE OF THE CASE.
- Initial budget should be prepared within 60 days of assignment of the case, in accordance with these Case Handling Guidelines and Billing Procedures.
- ORM recognizes that any budget figures advanced are simply estimates.
- The estimated budget will in no way restrict the effective defense of the case.
- At such time as the budget estimates, including the MAXIMUM JUDGMENT VALUE of the case, become inaccurate, counsel must provide updated figures with a description of the developments which necessitated revision of the initial estimate.
- Unless otherwise instructed, the defense budget must be submitted in the space provided on the Initial Case Assessment form, and thereafter, on reporting forms provided by ORM with the contract.

IV. REPORTING

REPORTING FORMS

Billing Attorney is required to provide the reports listed below in accordance with the instructions set forth in these guidelines and on the body of the forms, which will be transmitted by ORM with the contract. (E-mailable copies of the forms may be obtained from the Deputy Director of Litigation.)

The Initial Case Assessment, Request for Settlement Authority and Notice of Case Closure Forms shall be provided in all types of litigation. Six Month and Quarterly Report Forms are not used during Medical Review Panel proceedings or for Prisoner Judicial Review Suits. Special forms are provided by ORM for these categories of claims.

Immediate notice of receipt of an Offer of Judgment from Plaintiff or co-defendant shall be provided to the ORM Adjuster.

The completed reporting forms shall be transmitted via e-mail or fax to the adjuster at ORM, the appropriate Section Chief at DOJ and via e-mail to the DOJ Deputy Director at LitDir@ag.state.la.us

A. Initial Case Assessment

Due within 60 days of acceptance of contract.

Form includes space to report Defense Budget, including MAXIMUM JUDGMENT VALUE of the case, which should be prepared after careful thought and analysis of the Petition/Complaint for Damages and any available investigative materials.

B. Six Month Case Assessment

Due within six months of the date of acceptance of contract.

Updated Defense Budget, including MAXIMUM JUDGMENT VALUE of the case, should be submitted in space allotted on form if the previous estimates are no longer accurate. Provide description of developments which necessitate revision of budget.

C. Quarterly Report

Due 90 days after the due date of the Six Month Case Assessment and every 90 days thereafter, unless the status of the case is such that Billing Attorney can take no action to move the case along, i.e., waiting on accrual of period of abandonment. When, or if, an event occurs such that the case is no longer inactive, Billing Attorney is required to report the reason for the change in status of the case on this form and resume submission of Quarterly Report every 90 days thereafter.

Updated Defense Budget, including MAXIMUM JUDGMENT VALUE of the case, shall be submitted in space allotted on form if the previous estimates are no longer accurate. Provide description of developments which necessitate revision of budget.

D. DOJ/ORM Request for Settlement Authority (RSA)

1. INITIAL RSA

Submission of the INITIAL RSA is triggered by one of the following events, and is due within the applicable time frame set forth below:

(a) IMMEDIATE NOTICE—RECEIPT OF OFFER OF JUDGMENT

Billing Attorney shall **immediately** notify the adjuster upon receipt of an Offer of Judgment from the Plaintiff or a co-defendant, and shall submit a completed RSA as soon as possible to the Adjuster, the appropriate Section Chief, and the DOJ Deputy Director.

(b) TEN DAY DEADLINE

Billing Attorney shall submit completed RSA form within **10 days** (unless otherwise specified) of the occurrence of any of these other events:

- Receipt of settlement offer from Plaintiff
- Receipt of request to mediate/arbitrate from any party
- Receipt of Notice of Status Conference to set trial date
- Counsel's determination that liability is certain and/or settlement is advisable
- Settlement activity on the part of any co-defendant
- Receipt of instructions from ORM adjuster to make an offer of judgment plaintiff. (Prior written approval of DOJ required before offer may be extended.)
- Any significant or unusual event which changes the evaluation of the State's exposure

(c) THIRTY DAY DEADLINE

Billing Attorney shall submit completed RSA form at least **30 days** (or as soon as practicable) prior to any **status conference** at which it may be **reasonably anticipated that settlement will be discussed by the Trial Judge or his designee**

2. SUPPLEMENTAL RSA'S

Billing Attorney shall submit a SUPPLEMENTAL RSA when (1) there is a significant change in counsel's evaluation of liability and/or quantum as reported in the previous RSA or (2) when requested by the Adjuster. It is recommended that any new information or new evaluation be set forth in **boldface type** on the Supplemental RSA form.

3. PRE-TRIAL REPORT RSA---DUE 60 DAYS PRIOR TO TRIAL

Unless otherwise instructed by the Adjuster, the RSA form is to be used for preparation of a Pre-Trial Report, and it is due at least 60 days prior to trial.

When a trial is continued, an up-dated Pre-Trial Report RSA shall be submitted (unless instructed otherwise by the adjuster) at least 60 days prior to the new trial date and it must include a description of any significant developments, including pre-trial rulings that bear on the assessment of liability or damages, a recap of settlement discussions, and any other new information that affects resolution of the case.

ADDITIONAL REPORTING REQUIREMENTS

In addition to the foregoing, **during trial**, Billing Attorney shall provide the Adjuster with brief daily reports, via e-mail or fax. Verbal reports must be documented in writing.

Any judgment/verdict on the merits rendered against the State shall be reported immediately, either verbally or via e-mail, to the adjuster, the appropriate DOJ Section Chief and the DOJ Deputy Director.

Written post-trial report, including but not limited to summary of significant testimony, assessment of witnesses, rulings from the bench, evaluation of jury, recommendation for new trial/appeal and reasons therefore, must be submitted within seven (7) days of verdict or decision to adjuster, appropriate DOJ Section Chief and DOJ Deputy Director. (DO NOT WAIT ON FORMAL JUDGMENT.) If appeal is recommended, an appeal budget must be submitted with the post-trial report.

All reports must contain any and all significant, new information and/or developments, with a clear explanation of the impact on the case.

ORM will not pay for any time billed for preparation of reporting forms and/or status reports other than those specifically requested by ORM.

ORM will not pay for time billed in preparation of incomplete reporting forms or reporting forms which replicate near verbatim information contained in correspondence.

V. AUTHORIZATION REQUIRED

A. WRITTEN AUTHORIZATION

Billing Attorney must obtain prior written authorization from the adjuster and as indicated, from DOJ, for the following:

1. Stipulations of Liability
Additional written concurrence of First Assistant Attorney General Required.
2. Waiver of Jury Trial
Additional written concurrence of First Assistant Attorney General Required.
3. Appeal or Writ—taking or waiving
Additional written concurrence of DOJ Section Chief is required. Billing Attorney may not, in any case, permit the delays to lapse where specific agreement of ORM and the specific concurrence of the DOJ Section Chief cannot be obtained within applicable delays.
4. Response to Plaintiff's Offer of Judgment
(Additional written concurrence of Section Chief, Deputy Director and First Assistant Attorney General Required)
Use RSA form.

5. Extending Offer of Judgment to Plaintiff
(Additional written concurrence of DOJ Section Chief, Deputy Director and First Assistant Attorney General Required) Use RSA form.
6. Retaining Experts, outside adjusters, independent investigators, photographers, etc.
Use ORM form provided with contract.
7. Trial stipulations that do not bear significantly on issue of liability, i.e., stipulation as to the amount of a lien for reimbursement of medical bills

B. VERBAL AUTHORIZATION

Billing Attorney must obtain prior verbal authorization from the adjuster, which must be confirmed in writing, for the following:

1. Take or participate in out of state depositions
2. Schedule independent medical examination or obtain outside review of medical records
3. Legal Research in excess of 3 hours.
4. Inspection of Scene of Accident

VI. DOCUMENTATION

Contract counsel must always provide ORM the following documentation in a timely manner.

- A. Copies of all pleadings and amended pleadings, reports, evaluations, or other substantive documents that are either prepared or received by counsel. These documents should not be transmitted to DOJ unless requested by DOJ. ORM will not pay for routine transmittal letters.
- B. Releases, Orders of Dismissal, and Final Judgments
(Copies shall be sent to the ORM adjuster, the appropriate DOJ Section Chief, and the DOJ Deputy Director.)
- C. Any other documents reasonably requested by the ORM adjuster, in particular research memoranda, motion papers and briefs, deposition transcripts, expert and medical reports
- D. No payment will be made for preparation of pleadings and other substantive documents when copies have not been furnished to the ORM adjuster.

Note: In the case of coverage disputes between ORM and an individual being defended, coverage related privileged information must not be disclosed absent consent from the individual or as a result of discovery between the ORM adjuster and the individual.

VII. CONSULTATION

- A. Billing Attorney and the ORM adjuster should endeavor to agree on proposed activities outlined in the plan of action set forth in the Initial Case Assessment and updated in the subsequent reporting forms.
- B. In medical malpractice cases, an evaluation should be made by Billing Attorney, followed by Consultation with the ORM adjuster, as to the use of Medical Review Panel members as experts at trial.
- C. Any request for investigation or discovery should be handled directly with the adjuster, unless otherwise instructed.

VIII. CHARGES FOR SERVICES

ALLOWABLE CHARGES AND RELATED PROCEDURES:

- A. In-Firm Conference
 - 1. Reasonable and necessary time is reimbursable to obtain specific advice or counsel on substantive or procedural aspects of the case
 - 2. Must provide sufficient detail to demonstrate relevance and value
- B. Multiple Attendances
 - 1. Generally, only one attorney may bill for attendance at trial, court appearances, meetings, depositions, witness interviews, inspections, and other events.
 - 2. Billing Attorney must consult with the ORM adjuster and receive prior written approval for more than one timekeeper's attendance at an event.
- C. Depositions

No prior consultation needed for attendance of deposition of the following:

 - 1. Plaintiff
 - 2. Client
 - 3. Co-Defendant
 - 4. Primary Treating Physician
 - 5. Liability Experts

Billing Attorney should consult with the ORM adjuster for authorization to attend all other depositions.

Written authorization is required for attending out of state depositions.

Within **ten (10) days** of the conclusion of the deposition, attorney shall provide a written report which summarizes the key points of the deposition testimony and an assessment of how the facts affect the case. Only upon request of the ORM adjuster, shall a copy of the deposition be provided.

D. Legal Research

1. Billing Attorney must consult with and receive approval from ORM if more than three (3) hours of research is expected.
2. Research, whether legal, medical, engineering or in other areas which is necessary to educate the attorney on the issues, shall be described in detail to include the issues and the source material.
3. Research of topics by electronic means will be reimbursed based on the amount of time incurred to perform the research.
4. Copies of all significant research must be sent to adjuster. Other results of research must be furnished upon request.
5. Repetitive research which duplicates prior research conducted in other cases on the same issue will not be allowed. However, reasonable time to locate, update, and modify prior research for use in a new case is compensable.
6. Research on a body of law with which contract counsel should be familiar will not be allowed.

E. Motions

1. Billing Attorney must consult with ORM when events occur which justify filing a motion.

F. Revision of Standardized Forms/Pleadings

1. Only actual time spent particularizing standardized forms/pleadings is billable.
2. Time spent, drafting 'standard' language is not billable.

G. Summaries and Trial Preparation

1. Should occur only when needed
2. Unless requested by the ORM adjuster, the following activities shall be performed *only* if trial is imminent:
 - a. Line summary of deposition

b. Preparation of Jury Charges

3. Digests and summary preparation are typically a paralegal function.
4. Unless prior approval is received from the ORM adjuster, attorney time is not billable for digests and summary preparation.

H. Editing

1. Charges for editing routine work product of another attorney will not be allowed.

I. Travel

1. Billing Attorney must consult with the ORM Adjuster prior to any out of state travel. Louisiana State travel rules and regulations will apply. First Class travel is not allowed. Arrangement for air travel must be made through State travel contractor to obtain State rates. Authorization is not required for in-state travel. However, State Travel Rules and Regulations will apply.
2. Mileage must include beginning and ending odometer readings or a computer map source, date and reason for travel.
3. Travel to and from depositions, etc., shall be paid at ½ the usual hourly rate.
4. Travel time and expenses will be disallowed if travel distance from lawyers' office to destination is within a 10 mile, one way radius, including travel time to and from the courthouse or other destination for attending hearings and filing of pleadings or other litigation activities.

NON-BILLABLE CHARGES:

A. Secretarial and Clerical Activities

Not billable to ORM

1. Examples Include
 - a. Mail handling
 - b. New file set up
 - c. Calendar maintenance

- d. Transcribing
 - e. Copying
 - f. Posting
 - g. Faxing
 - h. Data entry
 - i. Routine scheduling
 - j. Enclosure or transmittal letters
 - k. Simple letters to clerk of court
2. File Management:
- a. Inserting/retrieving documents
 - b. File organization
 - c. Stamping documents
 - d. Assembling materials
 - e. Tabbing sub-files
 - f. Database maintenance

IX. BILLING PROCEDURE

A. Frequency

1. Within 30 days of the end of each quarter; or
2. Final Bill must be submitted within 90 days after case completed or invoice will not be paid.
3. As applicable, Final Bill will not be paid until and unless executed settlement/dismissal documents are submitted.

B. Retention

Attorneys are required to prepare and maintain any and all bills and supporting documentation for 5 years. For audit purposes, daily time sheets maintained by attorney name, caption, DOJ case number, ORM claim number, date, time with a detailed description of services are to be included in the needed documentation.

C. Format

1. Heading to include:

- a. Firm's IRS number
 - b. Case caption
 - c. Name of client
 - d. ORM file number
 - e. DOJ number (Docket Number or MRP Number)
2. Body must include daily entries showing:
 - a. Date work performed
 - b. Person performing work (initials)
 - c. Detailed description of work/Uniform Task-Based Management System (UTBMS) Litigation Codes
 - d. Actual time in 1/10-hour increments

D. Bill Summary

1. Full name of each timekeeper
2. Status of each timekeeper (i.e., partner, associate, paralegal, etc.)
3. Total hours and total cost for each timekeeper
4. Itemized expenses
5. Total fees and expenses for current billed period
6. Attorney Affidavit must be included with invoice. Experience level (number of years) of each attorney shown on the invoice must be verified and submitted with the affidavit.

E. Time Charges

1. Only actual time for each task
2. Must be in 1/10-hour increments
3. Must be recorded daily
4. Must be services an attorney would provide and not services that can be provided by a secretary or paralegal

F. Single Entry Time

1. Applies if activity time greater than 1/10-hour

2. One activity per entry
3. No bulk or block descriptions

G. Service Description

1. Description of Service to include:
 - a. Nature (e.g., "call to...")
 - b. Specific activity/project to which work relates
 - c. Subject matter of all communications and the identity and status of the person with whom the communication occurs
2. Generic descriptions not allowed, e.g.:
 - a. "Review File"
 - b. "Attention to"

X. DISBURSEMENTS — INTERNAL

ORM does not pay law office overhead.

ORM pays actual expenses without markup.

A. Itemization

1. Itemization should appear on bills unless documentation is included with bill:
 - a. Date
 - b. Specific description (i.e., telephone, Photo, cc)
 - c. Cost

B. Telephone

1. ORM pays only actual necessary long distance charges.

C. Paralegal Services

1. Work which should be billed as paralegal work:
 - a. Drafting form subpoenas
 - b. Following up on all subpoenas
 - c. Seeking medical information

- d. Summarizing or digesting depositions (only upon request of ORM adjuster or when trial is imminent)
- e. Legal research when it can be done by a paralegal

D. Clerical Services

- 1. ORM will not pay for either regular or over time clerical services.
- 2. Work which should be done by secretaries:
 - a. Making copies
 - b. Faxing documents
 - c. Scheduling depositions, hearings, etc.

E. Faxes

- 1. ORM will only pay actual long distance charges
- 2. ORM will not pay flat rate or per-page fax

F. Computerized Legal Research

- 1. ORM will not pay for vendor and service charges (e.g., Westlaw, etc.)
- 2. ORM pays for the professional opinion of attorney, not the cost to obtain the information.

G. Photocopy

- 1. In-House photocopy, maximum \$.10/page
- 2. Bill should show number of pages copied

XI DISBURSEMENTS — EXTERNAL

ORM will only pay actual costs—no markup allowed

A. Itemization

- 1. External expenses included on attorney's bill
 - Include:
 - a. Name of vendor
 - b. Date of service
 - c. Description of service

d. Cost

B. Express Mail

1. Use only as necessary and for reasons beyond firm's control.

C. Travel

1. Billing Attorney should consult the ORM adjuster prior to incurring any out of state travel expenses
2. Travel expenses will be reimbursed in accordance with the Louisiana State Travel Rules and Regulations. Refer to <http://www.doa.louisiana.gov/osp/travel/TravelGuide/docs/TravelGuide.pdf>

D. Documentation

1. Firm must supply receipts/documentation for all expenses.

E. External Professional Service

1. Billing Attorney must consult the ORM adjuster before hiring experts, consultants, investigators, etc. in all cases including Medical Malpractice.
2. Billing attorney must complete the Request for Contract Expert/Consulting Form and submit it to the ORM adjuster before approval will be given. Once approval is granted, the ORM adjuster will request a Contract for Professional Services for the expert/consultant. Medical Malpractice experts are excluded from the provisions of XI (E) (2).

AFFIDAVIT

STATE OF LOUISIANA

PARISH OF _____

BEFORE ME, the undersigned authority, personally came and appeared,
_____, Attorney at Law, who being
first duly sworn, did depose and state:

That payment of fees for professional services is due from the Office of Risk
Management in accord with the attached invoice or bill which is made a part
hereof: and

That this affidavit is hereby prepared in accord with R.S.39:1521.1 (Act 848
of 1982).

Sworn to and subscribed before me this _____ day of _____, 200__.

NOTARY PUBLIC

**Attorney – Client Communication
Privileged, Confidential, and Exempt from
Disclosure under applicable law.
Contains material prepared by counsel and may
include advice of counsel.**

INITIAL CASE ASSESSMENT FORM

CAPTION OF CASE:

CLIENT:

JDC# AND PARISH:

Suit#

JUDGE:

DATE OF OCCURRENCE:

FILED:

SERVED:

ORM#

ADJUSTER:

OFFICE/SECTION:

BILLING ATTORNEY:

Telephone Number:

CONTRACT ATTORNEY:

(If different from billing attorney)

PLAINTIFF'S ATTORNEYS:

CO-DEFENDANTS:

CO-DEFENDANT'S ATTORNEYS:

THIRD PARTY DEFENDANTS:

THIRD PARTY DEFENDANTS' ATTORNEYS:

DATE PREPARED:

- I. FACTS (alleged/established/inferred):
 - A. Plaintiff's Claims:
 - B. Accident Report/Investigative File:
 - C. Any other source of information:
- II. PLAINTIFF'S CAUSES OF ACTION AND/OR THEORIES OF RECOVERY:
- III. STATUTORY DEFENSES OR CASES ON POINT
(A very brief [1 hour or less] review of pertinent statutes and cases is permitted to assist in development theory of defense which in turn will assist in development of plan of action)

IV. CRITICAL DATES:

- A. Answer Due:
- B. Other:

V. RESPONSIVE PLEADINGS:

- A. Exceptions:
(list each exception separately, with brief description of basis for same)
- B. Jury Request approved by ORM:
- C. Jury Request plead in conformity with CCP 893 and CCP 1621 (Y or N):
- D. Affirmative Defenses plead:
- E. Comparative Fault plead:
- F. Claim for Contribution or Indemnity:

VI. INITIAL EVALUATION OF LIABILITY (all parties):
(describe each party's exposure in separate paragraph)

VII. DAMAGES (alleged/established/inferred):
(List each element of damage claimed in the Petition, whether it is allowable under law, and whether there is evidence to support it.)

Medicare Lien \$

Other Lien \$

VIII. INITIAL MOTIONS:
(list each Motion separately, with brief description of _____ for same)

IX. PLAN OF ACTION: INVESTIGATION AND DISCOVERY
(List each task anticipated, needed and/or required to develop defense of case; and where applicable, designate whether task has been accomplished):

- A. By ORM:
- B. By Agency/individual defendant:
(list contact information where available)
- C. By Trial Counsel:
(CAs applicable provide name(s), description of document which separate defense of claim and type of discovery request)
 - 1. Interviews/Documents from Client/Witness/Investigating Agent:
 - 2. Written Discovery:
 - 3. Depositions:
 - a. Plaintiffs:
 - b. Client:
 - c. Co-Defendants:
 - d. Fact/Eye Witnesses:

e. Agency Policy/Procedure Witnesses:

f. Treating health care providers:

g. Non-medical Experts:

4. Inspections:

5. Analysis of client/agency documents for privilege

6. Document Production to plaintiff/co-defendants:

X. EXPERTS

A. Identify by specialty the type of non-medical expert(s) needed to defend case; and advise whether in-house versus private expert(s) are appropriate

B. IME, identify specialty:

XI. ORM RESOURCES:

(Identify ORM resources that will assist in preparation of defense of case)

XII. INITIAL DEFENSE BUDGET:

A. Maximum Judgment Value \$_____

B. Expenses

1. Legal Fees \$_____

2. Support Personnel Costs \$_____
(Paralegals, IME, experts, etc.)

3. Other costs \$_____
(Travel, deposition, outside copying
photos/demonstrative evidence, etc.)

TOTAL EXPENSES \$_____

Six Month Case Assessment Form Due:_____

Signature

=====

INSTRUCTIONS TO TRIAL COUNSEL FOR SUBMISSION OF INITIAL CASE ASSESSMENT FORM:

The Initial Case Assessment is due **60 DAYS** from the date of acceptance of the contract.

It is recognized that trial counsel will not have sufficient information to complete many sections of this form at this early stage of the litigation. However, the form is designed to provoke thought and analysis of the defense of the case and the development of a plan of action to be discussed and agreed upon with the ORM Adjuster.

The analysis and description of Plaintiff's Causes of Action and/or Theories of Recovery are critical to the proper preparation of the defense in every case. It provides a road map for the types of witnesses and the documents that are needed. It should also be

used to identify claims for which there is no basis in law and/or fact, and after consultation with the ORM adjuster, motions for partial summary judgment and/or dismissal should be filed accordingly.

THE DEFENSE BUDGET IS PARTICULARLY CRITICAL TO ORM, WHICH RECOGNIZES THAT ANY FIGURES ADVANCED ARE SIMPLY ESTIMATES AND WILL IN NO WAY RESTRICT THE EFFECTIVE DEFENSE OF THE CASE.

AT SUCH TIME AS THE ESTIMATES BECOME INACCURATE, TRIAL COUNSEL MUST PROVIDE UPDATED ESTIMATES TO THE ADJUSTER WITH A DESCRIPTION OF THE DEVELOPMENTS WHICH REQUIRE A REVISION TO THE INITIAL ESTIMATE. SPACE IS PROVIDED ON SUBSEQUENT REPORTING FORMS FOR THIS PURPOSE.

Trial Counsel shall e-mail or fax the completed form to the ORM Adjuster and the Appropriate Section Chief at the Department of Justice and e-mail a copy of it to the DOJ Deputy Director at LitDir@ag.state.la.us.

ORM INTERNAL USE ONLY: USE IN ALL GL, RH, X IN SUIT, complex WC/Employer Liability Cases, and CR except prisoner judicial review.

**Attorney – Client Communication
Privileged, Confidential, and Exempt from
Disclosure under applicable law.
Contains material prepared by counsel and may
include advice of counsel.**

SIX MONTH CASE ASSESSMENT

CAPTION OF CASE:

CLIENT:

JDC# AND PARISH:

Suit#

JUDGE:

DATE OF OCCURRENCE:

FILED:

SERVED:

ORM#

ADJUSTER:

OFFICE/SECTION:

BILLING ATTORNEY:

Telephone Number:

CONTRACT ATTORNEY:

RACT ATTORNEY:
(If different from billing attorney)

PLAINTIFF'S ATTORNEYS:

CO-DEFENDANTS:

CO-DEFENDANT'S ATTORNEYS:

THIRD PARTY DEFENDANTS:

THIRD PARTY DEFENDANTS' ATTORNEYS:

DATE PREPARED:

- I. FACTS (alleged/established/inferred):
(Describe information developed, since last report, via discovery and investigation.)
- II. CRITICAL DATES
- III. STATUS OF PLEADINGS
 - A. DESCRIBE (Briefly) PLEADINGS TO DATE BY ALL PARTIES
 - B. DISPOSITIVE MOTIONS ANTICIPATED TO BE FILED BY ANY PARTY
 - C. DISCOVERY MOTIONS ANTICIPATED TO BE FILED
 - D. OTHER MOTIONS ANTICIPATED
- IV. DISCOVERY OBTAINED TO DATE
 - A. DEPOSITIONS
(Provide summary of significant testimony, assessment of credibility of witness, effect of testing on outcome of case)

B. WRITTEN DISCOVERY

- C. DOCUMENTS: (Provide brief summary of significant documents produced by any party to date)
- D. INSPECTIONS
- E. OTHER

V. LAW APPLICABLE

- A. PLAINTIFF'S BURDEN OF PROOF FOR EACH CAUSE OF ACTION AND/OR THEORY OF RECOVERY:
(Describe plaintiff's evidence, via combination of witnesses, documents, and/or experts in support of each and every element each cause of action or theory of recovery.)
- B. DEFENSES
1. LEGAL (ie, statutory immunity, lack of legal duty, etc.)
 2. FACTUAL (ie, no evidence of defect, eye witnesses fail to support claim, treating physicians do not support causation of injury)
 3. COMPARATIVE FAULT
(Describe evidence that supports affirmative defense of fault of plaintiff, co-defendants, third party defendants, unnamed third parties)
- C. COMPARATIVE LIABILITY
(Describe evidence produced or provided by any co-defendant or third party defendant that is adverse to State's exposure/liability.)
- D. CONTRIBUTION OR INDEMNITY CLAIM

VI. EVALUATION OF LIABILITY (all parties):
(Provide analysis and include opinion of plaintiff's chance of recovery by percentage fault assessed to State, all co-defendants and any unnamed third party)

VII. EVALUATION OF DAMAGES (all parties):

- A. List each element of damage claimed and whether the element is recoverable under applicable law, and describe evidence to support same.
- B. Describe evidence developed to contradict plaintiff's damage claims.

VIII. QUANTUM

A. Medical Specials

- | | | |
|----|-----------|----|
| 1. | To Date | \$ |
| 2. | Future | \$ |
| 3. | Life Care | \$ |
| 4. | Other | \$ |

TOTAL MEDICAL \$

- B. Lost Wages
 - 1. Past \$
 - 2. Future \$
 - TOTAL WAGE CLAIM \$
- C. General \$
(list each element claimed)
- D. Other \$
- TOTAL QUANTUM \$
- E. Liens
 - Medicare \$
 - Other \$

IX. PLAN OF ACTION: STATUS OF INVESTIGATION AND DISCOVERY

- A. COMPLETED
- B. ADDITIONAL DISCOVERY NEEDED
(List each task separately, and identify person responsible for its completion)

X. WITNESSES – FACT AND EXPERTS
(list name, title, address and statement of anticipated ????)

- A. PLAINTIFF:
- B. CLIENT:
- C. CO-DEFENDANT'S:
- D. THIRD PARTY DEFENDANT'S:
- E. NAME, IDENTIFY BY NAME, SPECIALTY, AND OPINION

XI. EXHIBITS

- A. PLAINTIFF
- B. STATE
- C. CO-DEFENDANT
- D. THIRD PARTY DEFENDANT

XII. TRIAL V. SETTLEMENT

- A. CONSIDERATIONS
 - 1. Precedent
 - 2. Philosophy of Venue
 - 3. Timing

4. Structured Settlement
5. ADR
6. Other

XIV. UPDATED DEFENSE BUDGET:

(Provide update where initial estimates have become inaccurate. If no change, put N/A)

A. Maximum Judgment Value \$_____

B. Expenses

1. Legal Fees \$_____

2. Support Personnel Costs \$_____
(Paralegals, IME, experts, etc.)

3. Other costs \$_____
(Travel, deposition, outside copying
photos/demonstrative evidence, etc.)

TOTAL EXPENSES \$_____

Reason for increase in defense budget:

Quarterly (90 day) Report Due _____

Signature

INSTRUCTIONS TO TRIAL COUNSEL FOR SUBMISSION OF SIX MONTH CASE ASSESSMENT REPORT FORM:

This form is due **180 DAYS** from the date of acceptance of the contract.

Information developed since submission of the Initial Case Assessment (60 day report) is to be reported on this form. ORM will not pay attorneys' fees submitted for Six Month Case Assessment reports that are simply a regurgitation of the 60 day report or verbatim replication of information contained in correspondence. It is not acceptable to respond "Don't Know."

THE DEFENSE BUDGET IS PARTICULARLY CRITICAL TO ORM, WHICH RECOGNIZES THAT ANY FIGURES ADVANCED ARE SIMPLY ESTIMATES AND WILL IN NO WAY RESTRICT THE EFFECTIVE DEFENSE OF THE CASE.

AT SUCH TIME AS BUDGET ESTIMATES BECOME INACCURATE, TRIAL COUNSEL MUST PROVIDE UPDATED ESTIMATES TO THE ADJUSTER IN THE SPACE PROVIDED ON THIS FORM WITH DESCRIPTION OF THE DEVELOPMENTS WHICH NECESSITATE REVISION OF THE INITIAL ESTIMATE.

FORM IS DUE SIX MONTHS FROM DATE OF ACCEPTANCE OF CONTRACT.

TRIAL COUNSEL SHALL E-MAIL OR FAX THE COMPLETED FORM TO THE ORM ADJUSTER AND THE APPROPRIATE SECTION CHIEF AT THE DEPARTMENT OF JUSTICE AND TO THE DOJ DEPUTY DIRECTOR AT LitDir@ag.state.la.us.

ORM: NOT FOR USE DURING MEDICAL REVIEW PANEL PROCEEDINGS. USE ONLY FOR MEDICAL MALPRACTICE CLAIMS IN SUIT STATUS.

Attorney – Client Communication
Privileged, Confidential, and Exempt from
Disclosure under applicable law. Contains
material prepared by counsel and may
include advice of counsel.

QUARTERLY REPORT
(also referred to as 90 Day Report)

DATE OF THIS REPORT:

TRIAL DATE:

BENCH: JURY:

CAPTION OF CASE:

CLIENT:

JDC# AND PARISH:

Suit#

JUDGE:

ORM#

ADJUSTER:

BILLING ATTORNEY:

Telephone Number:

CONTRACT ATTORNEY:

(If different from billing attorney)

I. SIGNIFICANT STEPS IN LITIGATION TAKEN SINCE LAST REPORT

A. DEPOSITIONS

(list by name, whether fact or expert, short summary of significant testimony)

B. DISCOVERY:

1. Filed on Client's Behalf

2. Preparation of Responses to Plaintiff and Co-Defendant's Discovery Request

3. Analysis of Responses received to Client's Discovery Requests:

4. Liens

a. Medicare \$

b. Other \$

5. Other

C. DISPOSITIVE MOTIONS:

(List all dispositive motions filed by any party and indicate basis for motion and, as applicable, basis for client's opposition to same)

D. SIGNIFICANT DISCOVERY MOTIONS FILED OR DEFENDED:

E. HEARING ON MOTIONS:

(Indicate Date and/or Outcome)

- F. STATUS CONFERENCE:
(Date and Issues discussed)
 - G. PRETRIAL CONFERENCE:
(Date and Issues discussed)
 - H. APPEAL/WRIT:
(Critical dates and description of pertinent issues)
 - I. ORAL ARGUMENT:
(Indicate Date and/or Outcome)
 - J. OTHER:
- II. AMENDMENT/SUPPLEMENT TO PLEADINGS (ALL PARTIES):
 - III. AMENDMENT/SUPPLEMENT/UPDATE TO PLAN OF ACTION, IF ANY:
 - IV. DESCRIBE ANY CHANGE IN EVALUATION OF LIABILITY SINCE LAST REPORT AND REASONS THEREFORE:
 - V. DESCRIBE ANY CHANGE IN EVALUATION OF DAMAGES SINCE LAST REPORT AND REASONS THEREFORE:
 - VI. DESCRIBE ANY SIGNIFICANT EVENTS IN LITIGATION THAT ARE NOT INCLUDED IN PREVIOUS RESPONSES.
 - VII. DATE AND AMOUNT OF LAST SETTLEMENT OFFER & RESPONSE THERETO: (include any updated recommendations regarding settlement)
 - VIII. IF THE ESTIMATES FOR ATTORNEYS FEES AND EXPENSES PREVIOUSLY SUBMITTED ARE NO LONGER ACCURATE, PLEASE INDICATE CHANGES TO BUDGET AND REASONS FOR CHANGE:
 - A. UPDATED DEFENSE BUDGET:
 - 1. Maximum Judgment Value \$_____
 - 2. Expenses
 - a. Legal Fees \$_____
 - b. Support Personnel Costs \$_____
 - (Paralegals, IME, experts, etc.)
 - 3. Other costs \$_____
 - (Travel, deposition, outside copying photos/demonstrative evidence, etc.)
 - TOTAL EXPENSES \$_____

REASONS FOR CHANGE IN BUDGET:

SINCE THE DATE OF ASSIGNMENT, DESCRIBE ANY REAL OR POTENTIAL CONFLICT OF INTEREST THAT HAS ARISEN THAT WOULD PROHIBIT YOU OR YOUR FIRM FROM CONTINUED REPRESENTATION IN THIS CASE:

DATE NEXT REPORT IS DUE:

Signature

INSTRUCTIONS FOR SUBMISSION OF QUARTERLY REPORT:

This form is to be completed and submitted 90 days after the due date for the Six Month Case Assessment, and every 90 days thereafter, unless the status of the case is such that counsel can take no action to move the case along. For example, if the case is in "monitor only status" while the period of abandonment accrues, trial counsel should cease submitting this form after consultation and agreement with the ORM adjuster that the case is on a path for abandonment. When, or if, An event occurs such that a case is no longer in "monitor only" or inactive status, report the reason for the change on this form and resume submission of this form every 90 days thereafter.

E-mail or fax completed form to the adjuster at ORM and to the appropriate Section Chief at the Department of Justice and email a copy to the DOJ Deputy Director at LitDir@ag.state.la.us.

Attorney – Client Communication
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Disclosure under applicable law. Contains
material prepared by counsel and may
include advice of counsel.

DOJ/ORM REQUEST FOR SETTLEMENT AUTHORITY

Caption of Case:
ORM #:

TRIAL DATE:
EVENT WHICH
PROMPTS REPORT:
(see instructions at end of form)

Client:

Adjuster:
Telephone No.

Trial Counsel:
Telephone No.

Plaintiff Attorney:
Assessment:

Judge's Name:
Parish/City:
Assessment of Judge and Venue:

JURY: (Yes or No)
Assessment of Venue:

Co-Defendant(s):
Name:
Attorney:
Assessment of Attorney:

I. Facts:

II. Damages:
(Describe each element of plaintiff's damage claim and the evidence to support or
contradict same, including but not limited to opinions of treating physicians and IME. If
multiple plaintiffs, list claims of each separately)

A. Plaintiff's Non-Medical Experts:

Name:

Specialty:

Short summary of opinion:

B. Client's Non-Medical Experts:

Name:

Specialty:

Short summary of opinion:

C. Co-Defendant's Non-Medical Experts:

Name:

Specialty:

Short summary of opinion:

- III. Assessment of Client's Exposure:
- IV. Assessment of Comparative Fault:
(Describe comparative fault of plaintiff, co-defendants, unnamed third parties and evidence to support same)
- V. Dispositive Motions/Exceptions Filed During Pendency of Litigation:
(If applicable, describe trial court's ruling on any dispositive motions and/or exceptions and the affect, if any, of those rulings on the ultimate trial of this case.)
- VI. Pretrial Motions and Evidentiary Issues:
(If applicable, list each motion anticipated to be filed before trial, including but not limited to motions in limine and Daubert motions, and any evidentiary problems that may bear on the outcome of the case.)
- VII. Other Procedural Matters that Bear on Settlement or Trial of this Case:
- VIII. Quantum:
- A. Medicals: \$
(List bills)
- B. Lost Wages: \$
- C. General: \$
(In addition to \$ amount, list elements of general damage claim.)
- D. Other: \$
(In addition to \$ amount, identify or describe each 'other' element of damage; for example, a claim for attorney's fees, a claim for treble damages, etc.)

Plaintiff's Offer \$

Medicare Lien \$

Other Lien \$

Range of verdict if case is tried: \$

Recommendations of trial counsel: \$

Reasons to justify recommendation:

Submitted: _____ Date: _____
(Type Name)

Section/Office Chief Comments: _____

Approved: _____ Date: _____
Section Chief

Adjuster Comments: _____

Approved: _____ Date: _____
(Type Name)

Office of Risk Management Comments (if applicable):

Approved: _____ Date: _____
(Type Name)

First Assistant Attorney General's Comments (Up to \$999,999):

Approved: _____ Date: _____
NICHOLAS GACHASSIN, JR.
FIRST ASSISTANT ATTORNEY GENERAL

Attorney General's Comments (Over \$1,000,000)

Approved: _____ Date: _____
CHARLES C. FOTI, JR.
ATTORNEY GENERAL

NOTE TO DOJ/ORM:

Once authorization process has been completed, e-mail this form to the assigned defense counsel, the respective Section Chief, the Office Chief if case is handled out of a Satellite Office, Wanda Hebert, Rob Harroun and Nick Gachassin.

Note to ORM Staff: Completed copy should be routed to your immediate supervisor and the Assistant Director for Litigation Management.

INSTRUCTIONS TO BILLING ATTORNEY FOR SUBMISSION OF RSA:

1. INITIAL RSA

Submission of the INITIAL RSA is triggered by one of the following events, and is due within the applicable time frame set forth below:

(a) IMMEDIATE NOTICE—RECEIPT OF OFFER OF JUDGMENT

Billing Attorney shall **immediately** notify the adjuster upon receipt of an Offer of Judgment from the Plaintiff or a co-defendant, and shall submit a completed RSA as soon as possible to the Adjuster, the appropriate Section Chief, and the Director of Litigation.

(b) TEN DAY DEADLINE

Billing Attorney shall submit completed RSA form within **10 days** (unless otherwise specified) of the occurrence of any of these other events:

- Receipt of settlement offer from Plaintiff
- Receipt of request to mediate/arbitrate from any party
- Receipt of Notice of Status Conference to set trial date
- Counsel's determination that liability is certain and/or settlement is advisable
- Settlement activity on the part of any co-defendant
- Receipt of instructions from ORM adjuster to make an offer of judgment plaintiff. (Prior written approval of DOJ required before offer may be extended.)
- Any significant or unusual event which changes the evaluation of the State's exposure

(c) THIRTY DAY DEADLINE

Billing Attorney shall submit completed RSA form at least **30 days** (or as soon as practicable) prior to any **status conference** at which it may be **reasonably anticipated that settlement will be discussed by the Trial Judge or his designee**

2. SUPPLEMENTAL RSA'S

Billing Attorney shall submit a SUPPLEMENTAL RSA when (1) there is a significant change in counsel's evaluation of liability and/or quantum as reported in the previous RSA or (2) when requested by the Adjuster. It is recommended that any new information or new evaluation be set forth in **boldface type** on the Supplemental RSA form.

3. PRE-TRIAL REPORT RSA---DUE 60 DAYS PRIOR TO TRIAL

Unless otherwise instructed by the Adjuster, the RSA form is to be used for preparation of a Pre-Trial Report, and it is due at least 60 days prior to trial.

When a trial is continued, an up-dated Pre-Trial Report RSA shall be submitted (unless instructed otherwise by the adjuster) at least 60 days prior to the new trial date and it must include a description of any

significant developments, including pre-trial rulings that bear on the assessment of liability or damages, a re-cap of settlement discussions, and any other new information that affects resolution of the case.

Billing Attorney shall fax or e-mail the completed RSA to the adjuster and the appropriate Section Chief at the Department of Justice and e-mail a copy to the DOJ Deputy Director at LitDir@ag.state.la.us .